

INDIGENT DEFENSE TRUST FUNDS

Board Meeting

Division of Finance, 2110 State Office Building, Salt Lake City, Utah 84114

Public Meeting Notice and Agenda

January 19, 2016

11:30 a.m.

To join the meeting by phone, call: **1-877-820-7831**

Participant Pass Code: **349946**

1. **Welcome.**
2. **Review and approval of the minutes from the meeting held on Sept. 15, 2015**
3. **Assignments from the last meeting.**
 - a) Follow-up with UAC for board appointments.
 - b) Talk to Liz Hunt about taking the Thad Douglas Robertson appeal. (Liz Hunt was contacted and she responded back on Oct. 6, 2015. She will not be able to take the case.)(Email sent to Scott Wiggins on Oct. 14, 2015, to see if he would take the appeal.
 - c) Send James Valdez and Ed Brass a letter or email about sending in regular billings. (Emails sent to Mr. Valdez and Mr. Brass on Oct. 9, 2015. Ed Brass responded the same day that he would send more frequent billings.)
 - d) Contact Jennifer Gowans for an update on Griffin Appeal. (Email sent to Ms. Gowans on Oct. 9, 2015.)
4. **Mary Corporon (Brandon Smith case), Mary will address the Board to request additional funding on Smith case:**
5. **Scott Wiggins (David Drommond appeal), Scott will address the Board to request additional funding on Drommond case.**
6. **Fund Balances as of 1/15/16:**
7. **Assessments for 2016:**
8. **Review of Current Cases:**

Glen Howard Griffin appeal-Box Elder County, Jennifer Gowans Attorney
David Drommond appeal-Davis County, Arnold Wiggins Attorney
Sun Cha Warhola-Davis County, Edward K. Brass Attorney
Angelo Seth Carrasco-Iron County, Richard Mauro Attorney
Martin Chris Nelson appeal-Iron County, Liz Hunt Attorney
Logan McFarland-Sanpete County, Douglas Terry Attorney
William C. Lawton-Sevier County, James A. Valdez Attorney (mental competency issues)
Brandon Perry Smith-Washington County, Gary Pendleton

Thad Douglas Robertson appeal- Iron County, waiting on counsel to be appointed.
Richard Andrew Jones appeal-Washington County, No agreement yet with any attorney.

Indigent Inmate Fund Cases Sanpete County, (Gunnison Prison):

Steven Crutcher, aggravated murder, Sanpete County, Ed Brass Attorney: Trial date April 18-May 13, 2016.

Steven Crutcher, additional charges, Doug Neeley Attorney:

Ryan Jamal Lokeni, Doug Neeley Attorney:

Kim Anantapol Shepherd, Doug Neeley Attorney:

9. Discuss Appointment of Denise Porter to the Board of Pardons and Parole. Discuss Possible Need to Appoint New Board Member:

10. Other Business:

11. Next Meeting:

Please note that an audio recording of the public portions of this meeting will be posted on the Public Notice website pmn.utah.gov. In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids or accommodation services for this meeting should contact Barbara Sutherland at the Division of Finance, 801-538-3020, bsutherland@utah.gov, or use Relay Utah (toll free in-state 7-1-1 or Spanish-language 888-346-3162) giving at least 48 hrs. notice or the best notice practicable. Every effort will be made to accommodate requests for aid and services for effective communication.

Draft waiting formal approval

INDIGENT DEFENSE TRUST FUNDS BOARD

Meeting Minutes

Division of Finance, 2110 State Office Building, Salt Lake City, Utah 84114

September 15, 2015

11:30 a.m.

Public Meeting Minutes

Attendance - Board Members:

Brody Keisel, Sanpete County Attorney-Chair
Barry Huntington, Garfield County Attorney – Vice Chair
Scott Garrett, Iron County Attorney
Richard Gale, Attorney (absent)
Denise Porter, Attorney
John Reidhead, Director, Division of Finance
Richard Schwermer, Administrative Office of the Court

Attendance - Staff and Others:

Paul Tonks, Attorney General's Office
Jessica Hardy, Accountant, Division of Finance
Barbara Sutherland, Administrative Assistant, Division of Finance

Note: A copy of meeting materials, and an audio recording of the meeting can be found on the Public Notice Website.

1. Welcome:

Brody Keisel, the Board chair welcomed everyone to the Indigent Defense Trust Funds Board Meeting, September 15, 2015 (11:39 a.m.).

2. Review and approval of minutes from the meeting held on April 7, 2015.

The Board reviewed the minutes from the meeting held on April 7, 2015.

Rick Schwermer made a motion to approve the minutes from the April 7, 2015 meeting. Scott Garrett seconded the motion. A vote was taken, motion passed unanimously.

3. Assignments from the last meeting.

a) Follow-up with UAC for board appointments. (UAC has been contacted, and they have not heard back from them.)

Barry Huntington talked with Adam Trupp and he said that he was reappointed. The Board is still waiting on confirmation from UAC. The Division of Finance has not heard back about the other board appointment from UAC. They will contact them again before the next meeting.

b) Talk to Denise Porter about Checklist and expected costs of foreseeable items on cases.

Denise presented some preliminary numbers to the Board. She looked at specific numbers for defense costs. From a 2010 federal study on the average cost of defense in a death case, the cost for attorneys only, was \$273,000. If there is a trial the amount goes up to \$352,000, and if there is a plea it drops to \$122,000. For expert costs on a federal case the cost was approximately \$83,000, if the case went to trial the average was \$100,000, and if there was a plea \$42,000. This is just for trial work. Federal cases are always more expensive.

Kansas averaged almost \$400,000, per case for trial and appeal. If there was a plea the costs went down to \$130,000.

Missouri averaged in the capital division about \$127,000 per case for attorneys. In Nevada if the defendant got the death penalty the attorney cost was \$176,000, if the state lost or there was an acquittal, it went up to \$229,000. If the death penalty was not sought the cost went down to \$16,000.

Colorado published a law review article where they looked at average court days. In Washington State for both prosecution and defense the cost was \$470,000. Idaho did not have any information on the trial side, but had a few numbers based on counties, which was around \$100,000. The appeals office, spend 44 times more on a death penalty appeal than on a life sentence appeal.

Ms. Porter gave some statistics on some big cases from different states. In the Holmes case in Colorado, the top two lawyer fees were estimated to have been paid \$709,000. The McVey defense team was paid \$14 million.

The Indigent Defense Trust Fund is on an average \$20,000-\$30,000, lower in terms of the contract. Idaho is low on the trial side but is paying a lot more on the appellate side.

Denise will send this information out to the Board. She will prepare a one page summary of what she presented on costs today at the meeting, and attach the pdf files of the information.

Brody Keisel thinks it is good to have the defense council come to board meetings when there are concerns on funding. In most cases the board has approved additional funding.

John Reidhead asked if the soft caps should be increased.

Denise Porter said there have been two different thoughts regarding the funding since she has been on the board. One is to hold the lawyers tightly to the contract amount unless there was an extraordinary issue. Secondly is to invite lawyers to come to a board meeting to answer questions and present their reasons for more funding. She feels that the board is willing to listen to counsel and they are also willing to adjust funding if necessary. She is comfortable with the way the cases are funded.

There was a discussion on the mitigation fees and whether to raise the amount. It was decided not to raise the mitigation fees at this time.

c) Send Utah Code citation to Sanpete County regarding replenishing the Indigent Inmate Fund and let Brody (Completed).

There is \$969,245.48, currently in the Indigent Inmate Fund. As the amount continues to decrease Sanpete County will need to replace the fund with taxes. Brody will take this information to the county to discuss what is needed to bring the fund back to the \$1 million.

d) Call Washington County about Richard Andrew Jones appellate counsel. (Call has been made.)

John Reidhead explained that Washington County has been funding Richard Andrew Jones' appeal and they felt like it was their responsibility. They were to get back to us about the funding, but we have not heard anything.

4. Add possible changes to the standard contract concerning the use of Utah-based investigators and Mitigation specialists to save travel costs, unless approved by the board. Also, use Utah based specialists.

There is only one mitigation expert in the State, if needed the state has used mitigation specialist from out of state. There are two investigators in the state that the fund uses.

It was decided not to change the language in the standard contract to use Utah-based investigators and Mitigation experts for now.

5. Fund Balances as of 9/10/2015.

Jessica Hardy reviewed the fund balance for the Indigent Defense Trust Fund. The fund balance as of Sept. 9, 2015, is \$622,236.55, with \$31,463.84, in pending commitments, leaving a total balance of \$590,772.71 in the fund.

The Indigent Inmate Trust Fund (Sanpete County) has a balance of \$969,245.48.

6. Review of County Assessments for 2016.

The Board reviewed the county assessments for 2016. The total for the assessment for 2016 is \$491,452. This total is decided by population and population taxes from participating counties.

The board discussed whether to assess the counties the full amount or to do a one-time reduction for 2016.

Denise Porter moved to approve a full assessment. Barry Huntington seconded the motion, the motion passed unanimously.

Denise Port moved to break for lunch (12:16 p.m.). Brody Keisel seconded the motion; a vote was taken and passed unanimously.

The meeting reconvened at 12:30 p.m.

7. Review of Current Cases:

Sun Cha Warhola-Davis County, Edward K. Brass Attorney: Nothing new, competency issue.
Angelo Seth Carrasco-Iron County, Richard Mauro Attorney: The preliminary hearing was continued until Sept. 18, 2015.

Thad Douglas Robertson-Iron County, Douglas Terry Attorney: Trial was in June. He was convicted of two counts of aggravated murder. He will be sentenced today.

Logan McFarland-Sanpete County: They have retained all the discovery information, approximately 90% of the discovery has been provided to the defense counsel. The defense has requested another 60 to 90 days before they request a preliminary hearing date.

William C. Lawton-Sevier County, James A. Valdez Attorney: Mental competency issues. Close to a resolution.

Brandon Perry Smith-Washington County, Gary Pendleton Attorney: Receiving regular billings.

Glen Howard Griffin appeal-Box Elder County, Jennifer Gowans Attorney: Close to the end of the approved funding.

David Drommond appeal-Davis County, Arnold Wiggins Attorney: No new billings.

Robert Cameron Houston appeal, Davis County, John Pace Attorney: On Feb. 24, 2015, the Utah Supreme Court Affirmed Robert Cameron Houston's Life without Parole sentence.

Martin Chris Nelson appeal-Iron County, Liz Hunt Attorney: Completed, Supreme Court affirmed the life sentence.

Richard Andrew Jones appeal-Washington County: See 3. (d)

Indigent Inmate Fund Cases Sanpete County, (Gunnison Prison):

Steven Crutcher, aggravated murder, Sanpete County, Ed Brass Attorney: New trial date is set for April 18 – May 13, 2016.

Steven Crutcher, additional charges, Doug Neeley Attorney: Nothing discussed.

Thomas Bradfield, Doug Neeley Attorney: Resolved.

Abel Castillo, Doug Neeley Attorney: Resolved.

Ryan Jamal Lokeni, Doug Neeley Attorney:

Kim Anantapol Shepherd, Doug Neeley Attorney: Has had a preliminary hearing, and they are waiting on lab results on substance (drug).

6. Other Business:

The Board discussed an appellate attorney for Thad Douglas Robertson.

John Reidhead moved to contact Liz Hunt to see if she would be able to take the appeal. Denise Porter seconded the motion. Motion passed.

7. Next Meeting: January, 19, 2016, 11:30 a.m.

Barry Huntington moved to adjourn. John Reidhead seconded the motion. The meeting adjourned at 12:55 p.m.

**Indigent Capital Defense Trust Fund
Fund 7261**

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|---|--------------------------|
| Beginning Balance (as of 9/10/15) | 622,236.55 |
| Revenue: | |
| County Assessments | 258,730.00 |
| Interest | 1,641.30 |
| Other | 1,608.35 ** |
| Total Revenue | <u>261,979.65</u> |
| Expenditures: | |
| Case Expenses | |
| Angelo Carrasco | (22,620.11) |
| Glen Griffin (appeal) | (1,369.95) |
| William Lawton | (560.00) |
| Logan McFarland | (19,560.89) |
| Thad Robertson | (1,039.50) |
| Total Case Expenditures | <u>(45,150.45)</u> |
| Other Expenditures | <u>(560.00)</u> |
| Total Expenditures | <u>(45,710.45)</u> |
| Ending Balance (as of 01/13/2016) | <u><u>838,505.75</u></u> |
| Pending Commitments | (64,295.28) |
| Revised Ending Balance (as of 01/13/2016) | <u><u>774,210.47</u></u> |

** reconciling items (includes interest amounts not included on previous statements and expenses/revenues included twice on earlier statements)